



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA060060

Petitioner, Matew Brugmann applied to the Board of Appeals to construct a parking area and retaining walls in the front yard of the lot at 101-103 University Road.

On 21 September 2006, the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed October 26, 2006, at 7:15 p.m. in the Selectmen's Hearing Room on the sixth floor of the Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published October 5 and 12, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **Matew Brugmann**

Location of Premises: 101-103 University Road

Date of Hearing: 10/26/2006

Time of Hearing: 07:15 p.m.

Place of Hearing: Selectmen's Hearing Room, 6th. Floor

A public hearing will be held for the design of All Off-Street Parking Facilities; Section 6.04.5.b; Variance Required; Section 6.04.12; Special Permit Required.

at 101-103 University Road

Said Premise located in a M-1.05 (Apartment House) district.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing was Chair, Diane Gordon and Board members Lawrence Kaplan and Enid Starr.

Fred Lebow of FSL Associates, 18 Shepard Street, Boston, MA 02135, presented the case for the petitioner. Matew Brugmann in 1996 had been granted relief from the Board for a two-car garage at the front of the house, case # 3321. The project was never done due to economic reasons. Mr. Lebow described University Road on the petitioner's side as steeply sloped with the only available parking at the curb. Recently a curb cut approximately 20 feet wide was constructed in the front of the house. Since the Town was re-dong the street the petitioner felt it would be a better job to do the cut before the street was finished. The petitioner worked with the Town to get the cut and also to remove a tree at the location. Mr. Lebow represented that because of the steep grade in front of the homes in the area many

of the homeowners have created parking in front of their homes similar to the request of the petitioner.

Mr. Lebow stated that the existing walkways were in poor condition and would be rebuilt as part of this project to meet the requirements of the Building Code. The width of the driveway will be approximately 25 feet. The plan by FSL Associates, dated 20 July 2006 and revised 27 July 2006, represented the width of the driveway to be 24 feet. The depth of the driveway is 20 feet.

The Chair asked whether anyone in attendance desired to speak in support of the requested relief. No-one in the audience responded.

The Chair then asked whether anyone wished to speak opposition. Ms. Jean Lindman of 74 University Road, across from the proposed project, rose to speak. Ms. Lindman represented that she has lived at the current location since 1976. She stated that historically cars have used University Road as a source of free parking. Within the last 10 years many residents have made cuts in front of their homes for parking without regard to the architecture of the neighborhood. Ms. Lindman cited specific examples of new parking areas and driveways along University Road. The Chair asked Ms. Lindman how they handle the parking of their own vehicles and she stated that they have a driveway and they park in tandem. The Chair advised that driveways are determined by Zoning By-Laws and must meet the requirements of the Town.

Planner, Lara Curtis then reviewed the comments and recommendations of the Planning Board:

The Planning Board has no objections to this proposal. Respective Town departments have already approved the removal of the previously existing street tree and the installation of the curb cut. Justification exists for some front yard parking due to the steep slope that discourages normal use of the property's side and rear yards. Most dwellings along the uphill side of University Road already do have similar front yard parking arrangements. The Planning Board recommends approval of the site plan and elevations prepared by FSL Associates Inc. and last dated July 27, 2006, and October 18, 2006, subject to the following conditions:

- 1. Prior to obtaining a building permit, the applicant shall submit to the Assistant Director of Regulatory Planning for review and approval a final elevation plan showing the design of the retaining walls.*
- 2. No vehicle may be parked in the parking area so that any portion of the vehicle overhangs onto the sidewalk.*
- 3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, indicating parking area*

materials, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair called on Frank Hitchcock representing the Building Department. Mr. Hitchcock stated many owners in the area have done similar projects to accommodate parking. He stated that due to the existing topography it would be extremely difficult to locate a driveway to access the side of the home. He stated that the design proposed by the petitioner provides for 17 feet of green/open space on one side and 20 feet on the other. He stated the only relief required was for the front yard and that the Building Department had no objections to the proposal, the relief required or the conditions recommended by the Planning Board.

The Chair then asked Mr. Lebow if he wished to make a closing statement and he stated that they will be using expensive materials, "versa-loc" and a concrete drive to be sensitive to the neighbors and assure a quality job.

The site plan of record was prepared by FSL Associates Inc., dated July 27, 2006, and revised October 18, 2006.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the relief requested under **Section 6.04.12** and makes the following findings pursuant to **Section 9.05** of the zoning by-law:

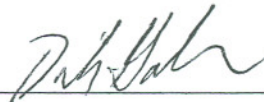
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the request relief subject to the following conditions:

1. Prior to obtaining a building permit, the applicant shall submit to the Assistant Director of Regulatory Planning for review and approval a final elevation plan showing the design of the retaining walls.
2. No vehicle may be parked in the parking area so that any portion of the vehicle overhangs onto the sidewalk.
3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, indicating parking area materials, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals



Diane R. Gordon

Filing Date: November 8, 2006

A True Copy:

ATTEST



Patrick J. Ward

Clerk, Board of Appeals